

Senate Study Bill 1071

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
WORKFORCE DEVELOPMENT
BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the duties of the labor commissioner pursuant
2 to wage payment collection and child labor law enforcement,
3 making an appropriation, and providing penalties.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 1409DP 83
6 ak/rj/8

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1 1 DIVISION I
1 2 WAGE PAYMENT COLLECTION PENALTIES
1 3 Section 1. Section 91A.12, subsection 1, Code 2009, is
1 4 amended to read as follows:
1 5 1. Any employer who violates the provisions of this
1 6 chapter or the rules promulgated under it shall be subject to
1 7 a civil money penalty of not more than ~~one~~ five hundred
1 8 dollars per pay period for each violation. The commissioner
1 9 may recover such civil money penalty according to the
1 10 provisions of subsections 2 to 5. Any civil money penalty
1 11 recovered shall be deposited in the general fund of the state.

1 12 DIVISION II
1 13 CHILD LABOR VIOLATION PENALTIES
1 14 Sec. 2. Section 92.11, subsection 2, paragraph c, Code
1 15 2009, is amended to read as follows:
1 16 c. ~~In~~ For cases where ~~none of the above-named~~ proofs
1 17 designated in paragraphs "a" and "b" are not obtainable,
1 18 documentation issued by the federal government that is deemed
1 19 by the commissioner to be sufficient evidence of age, or an
1 20 affidavit signed by a licensed a certificate, signed by the
1 21 local medical inspector of schools, or if there be no such
1 22 inspector, then by a physician appointed by the local board of
1 23 education, certifying that in the inspector's or physician's
1 24 opinion the applicant for the work permit is fourteen years of
1 25 age or more.

1 26 Sec. 3. Section 92.20, Code 2009, is amended to read as
1 27 follows:
1 28 92.20 PENALTY.
1 29 1. The parent, guardian, or person in charge of any
1 30 migratory worker or of any child who ~~shall engage~~ engages in
1 31 any street occupation in violation of any of the provisions of
1 32 this chapter shall be guilty of a ~~simple~~ serious misdemeanor.
1 33 2. Any person who furnishes or sells to any minor child
1 34 any article of any description ~~when~~ which the person knows or
1 35 should have known ~~that said the~~ the minor intends to sell in
2 1 violation of the provisions of this chapter, shall be guilty
2 2 of a ~~simple~~ serious misdemeanor.
2 3 3. Any other violation of this chapter for which a penalty
2 4 is not specifically provided, ~~shall be guilty of~~ constitutes a
2 5 ~~simple~~ serious misdemeanor.
2 6 4. Every day during which any violation of this chapter
2 7 continues ~~shall constitute~~ constitutes a separate and distinct
2 8 offense, and the employment of any person in violation of this
2 9 chapter ~~shall~~, with respect to each person so employed,
2 10 ~~constitute~~ constitutes a separate and distinct offense.

2 11 Sec. 4. Section 92.22, Code 2009, is amended to read as
2 12 follows:
2 13 92.22 LABOR COMMISSIONER TO ENFORCE.
2 14 1. The labor commissioner shall enforce this chapter. An
2 15 employer who violates this chapter or the rules adopted
2 16 pursuant to this chapter is subject to a civil penalty of not
2 17 more than ten thousand dollars for each violation.

2 18 2. The commissioner shall notify the employer of a
2 19 proposed civil penalty by service in the same manner as an
2 20 original notice or by certified mail. If, within fifteen
2 21 working days from the receipt of the notice, the employer
2 22 fails to file a notice of contest in accordance with rules
2 23 adopted by the commissioner pursuant to chapter 17A, the
2 24 penalty, as proposed, shall be deemed final agency action for
2 25 purposes of judicial review.

2 26 3. The commissioner shall notify the department of revenue
2 27 upon final agency action regarding the assessment of a penalty
2 28 against an employer. Interest shall be calculated from the
2 29 date of final agency action.

2 30 4. Judicial review of final agency action pursuant to this
2 31 section may be sought in Polk county district court in
2 32 accordance with the terms of section 17A.19. If no petition
2 33 for judicial review is filed within sixty days after service
2 34 of the final agency action of the commissioner, the
2 35 commissioner's findings of fact and final agency action shall
3 1 be conclusive in connection with any petition for enforcement
3 2 which is filed by the commissioner after the expiration of the
3 3 sixty-day period. In any such case, the clerk of court,
3 4 unless otherwise ordered by the court, shall forthwith enter a
3 5 decree enforcing the final agency action and shall transmit a
3 6 copy of the decree to the commissioner and the employer named
3 7 in the petition.

3 8 5. Any penalties recovered pursuant to this section are
3 9 appropriated and shall be used by the commissioner for special
3 10 expenses incurred during child labor investigations,
3 11 enforcement, and litigation. Penalties collected pursuant to
3 12 this section shall not be used by the commissioner to pay for
3 13 normal operating expenses of the commissioner including office
3 14 supplies, staff salaries, or wages.

3 15 6. Mayors and police officers, sheriffs, school
3 16 superintendents, and school truant and attendance officers,
3 17 within their several jurisdictions, shall ~~co-operate~~ cooperate
3 18 in the enforcement of this chapter and furnish the
3 19 commissioner and the commissioner's designees with all
3 20 information coming to their knowledge regarding violations of
3 21 this chapter. All such officers and any person authorized in
3 22 writing by a court of record shall have the authority to
3 23 enter, for the purpose of investigation, any of the
3 24 establishments and places mentioned in this chapter and to
3 25 freely question any person therein as to any violations of
3 26 this chapter.

3 27 7. County attorneys shall investigate all complaints made
3 28 to them of violations of this chapter, and prosecute all such
3 29 cases of violation within their respective counties.

3 30 EXPLANATION

3 31 Division I of this bill increases the monetary civil
3 32 penalty for a violation of the wage payment collection law
3 33 from \$100 to \$500 for each violation. The bill also specifies
3 34 that the monetary civil penalty shall be assessed per pay
3 35 period for each violation.

4 1 Division II of the bill makes several changes relating to
4 2 child labor laws in Code chapter 92. In Code section
4 3 92.11(2)(c), the bill allows the labor commissioner to
4 4 consider federal documents for a child to verify the child's
4 5 age in order to obtain a child labor permit. The bill strikes
4 6 references to "local medical inspector of schools" as a source
4 7 for verifying a child's age.

4 8 The penalties for a criminal child labor violation are
4 9 increased from a simple misdemeanor to a serious misdemeanor
4 10 in Code section 92.20. A serious misdemeanor is punishable by
4 11 confinement for no more than one year and a fine of at least
4 12 \$315 but not more than \$1,875.

4 13 In Code section 92.22, the bill authorizes the commissioner
4 14 to assess a civil penalty of up to \$10,000 for each violation
4 15 of Code chapter 92 or any rules adopted pursuant to the
4 16 chapter. The bill also establishes administrative procedures,
4 17 including notice, in accordance with Code chapter 17A. The
4 18 commissioner's decision shall be considered final agency
4 19 action for purposes of judicial review. The commissioner must
4 20 notify the department of revenue of any penalties assessed
4 21 against the employer. Interest is calculated from the date of
4 22 the final penalty determination. Judicial review of the final
4 23 agency action may be sought following procedures according to
4 24 Code section 17A.19. A petition for judicial review must be
4 25 filed in Polk county district court.

4 26 Any penalties that the commissioner receives under Code
4 27 chapter 92 shall be used by the commissioner for special
4 28 expenses incurred during child labor investigations,

4 29 enforcement, and litigation. Such moneys shall not be used
4 30 for the commissioner's normal operating expenses.
4 31 LSB 1409DP 83
4 32 ak/rj/8.1